IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

P R E S E N T:

THE HON'BLE MR JUSTICE M.H.S. ANSARI

A N D

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO. 21103 of 1997

Between:

Artos Breweries Limited, rep by its Manager, Sri R.Muthukumaran, S/o Sri Ranganatham;
A Company registered under the companies Act, 1956 Registration Office at Ramachandrapuram, 533 225
East Godavari District, R/o. Ramachandrapuram, East Godavari District, Andhra Pradesh.

..... PETITIONER

A N D

1) Deputy-Commissioner Of Income-tax, (Assessments) Special Range-I,

Anyakar Bhavan, Vishakapatnam.

2) The Andhra Pradesh Beverages Corporation Ltd., Represented by its Managing Director, 5-10-173/174, Shakkar Bhavan, HYDERABAD-500 004

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of a Mandamus declaring the order dated 30-7-1997 of the First Respondent herein refusing to withdraw the Garnishee orders as being bad in law, as it is arbitrary, illegal, opposed to the principles of natural justice and without the authority of law and to consequently direct th First Respondent herein to withdraw the three garnishee orders dated 17-10-1995 issued by him to the Second Respondent herein, Sri Hanuman Prasad Jaiswal, and M/s Kartik Sales.

Counsel for the Petitioner : MR.B.RAVINDRA

Counsel for the Respondent No.1.: MR.J.V.PRASAD

Counsel for the Respondent No.2: Standing Counsel for the A.P. Beverages Corpn. Limited.

The Court made the following :

O R D E R

Having heard the learned counsel for the Writ Petitioner as also the learned standing counsel for the Respondent-Corporation, we are of the view that the writ petition needs to be disposed of with certain appropriate directions and observations in view of the subsequent events, which have been brought to our notice.

Instant writ petition is filed, questioning the garnishee proceedings initiated by the first respondent under section 226 (3) of the Income Tax Act, 1961.

Recovery is sought to be made of the alleged tax due amount of Rs.1,48,05,679-00. Learned counsel for the writ petitioner submitted that recently i.e., to say after the institution of the instant writ petition the Tribunal has disposed of certain appeals filed by the writ petitioner-assessee granting substantial reliefs. In that view of the

matter, the amount demanded as tax due as on 17-10-1995 would require to be modified in the light of the orders passed by the learned ITAT and based thereon by the modification orders passed as consequence thereof.

In such view of the matter, writ petition is being disposed of with the observations that the first respondent shall reconsider the matter with regard to the amounts due after taking into consideration the orders passed by the ITAT in the appeals filed by the assessee and effect recoveries in accordance with law after determining the amounts, if necessary, that may be outstanding and payable by the assessee.

The amounts paid pursuant to the orders of this court, it is open to the respondent-authorities to appropriate the same towards tax due.

With the observations as above, writ petition is disposed of. No order as to costs.

M. H . S. AN SARI , J.

DECEMBER 8th, 2004. ----------

I S L. **B. SESHASAYANA REDDY , J**.

To

1) The Deputy-Commissioner Of Income-tax, (Assessments) Special Range-I, Anyakar Bhavan, Vishakapatnam.

2) The Managing Director, Andhra Pradesh Beverages Corporation Ltd., 5-10-173/174, Shakkar Bhavan, HYDERABAD-500 004.

3) TWO C.D. copies.